

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1447

Introduced by Assembly Member John A. Perez

February 27, 2009

An act to ~~amend Section 8547.2 of~~ *add Section 8543.8 to* the Government Code, relating to the State Compensation Insurance Fund.

LEGISLATIVE COUNSEL'S DIGEST

AB 1447, as amended, John A. Perez. State Compensation Insurance Fund: audits.

~~Under existing law, known as the California Whistleblower Protection Act, the State Auditor has~~

Existing provisions of the Government Code establish the Bureau of State Audits under the direction of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy in order to perform state audits independent of the executive branch and legislative control. Existing law provides that the head of the bureau is the State Auditor, appointed as specified. Under existing law, the State Auditor has statutory audit and evaluation duties and the authority to investigate any report of improper governmental activity within a state agency. Existing law, for purposes of that provision, defines a state agency as every state office, officer, department, division, bureau, board, and commission. Under existing law, Existing provisions of the Insurance Code establish that the State Compensation Insurance Fund is not subject to statutory provisions made applicable to state agencies unless the section specifically names the fund as an agency to which the provision applies. Exception is made specifically for, among others, provisions of the Government Code relating to the State Auditor.

This bill would ~~specify~~ *clarify* that the State Compensation Insurance Fund is ~~an a state agency over which the State Auditor has the authority to investigate reports of improper governmental activities, as specified for the purposes of the provisions of the Government Code establishing the bureau and its duties and authority, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8543.8 is added to the Government Code,
2 to read:

3 8543.8. For purposes of this chapter, the State Compensation
4 Insurance Fund is a state agency as that term is defined in Section
5 11000.

6 SECTION 1. ~~Section 8547.2 of the Government Code is~~
7 amended to read:

8 8547.2. ~~For the purposes of this article:~~

9 (a) ~~“Employee” means any individual appointed by the Governor~~
10 ~~or employed or holding office in a state agency as defined by~~
11 ~~Section 11000, including, for purposes of Sections 8547.3 to~~
12 ~~8547.7, inclusive, any employee of the California State University~~
13 ~~or the State Compensation Insurance Fund.~~

14 (b) ~~“Improper governmental activity” means any activity by a~~
15 ~~state agency or by an employee that is undertaken in the~~
16 ~~performance of the employee’s official duties, whether or not that~~
17 ~~action is within the scope of his or her employment, and that (1)~~
18 ~~is in violation of any state or federal law or regulation, including,~~
19 ~~but not limited to, corruption, malfeasance, bribery, theft of~~
20 ~~government property, fraudulent claims, fraud, coercion,~~
21 ~~conversion, malicious prosecution, misuse of government property,~~
22 ~~or willful omission to perform duty, or (2) is economically~~
23 ~~wasteful, or involves gross misconduct, incompetency, or~~
24 ~~inefficiency. For purposes of Sections 8547.4, 8547.5, 8547.10,~~
25 ~~and 8547.11, “improper governmental activity” includes any~~
26 ~~activity by the University of California or by an employee,~~
27 ~~including an officer or faculty member, who otherwise meets the~~
28 ~~criteria of this subdivision.~~

1 (e) ~~“Person” means any individual, corporation, trust,~~
2 ~~association, any state or local government, or any agency or~~
3 ~~instrumentality of any of the foregoing.~~

4 (d) ~~“Protected disclosure” means any good faith communication~~
5 ~~that discloses or demonstrates an intention to disclose information~~
6 ~~that may evidence (1) an improper governmental activity or (2)~~
7 ~~any condition that may significantly threaten the health or safety~~
8 ~~of employees or the public if the disclosure or intention to disclose~~
9 ~~was made for the purpose of remedying that condition.~~

10 (e) ~~“Illegal order” means any directive to violate or assist in~~
11 ~~violating a federal, state, or local law, rule, or regulation or any~~
12 ~~order to work or cause others to work in conditions outside of their~~
13 ~~line of duty that would unreasonably threaten the health or safety~~
14 ~~of employees or the public.~~

15 (f) ~~“State agency” is defined by Section 11000. “State agency”~~
16 ~~includes the University of California for purposes of Sections~~
17 ~~8547.5 to 8547.7, inclusive, and the California State University~~
18 ~~and State Compensation Insurance Fund for purposes of Sections~~
19 ~~8547.3 to 8547.7, inclusive.~~